

United States Courts
Southern District of Texas
FILED

Judge David Hittner
U.S. Southern District Court-Texas
Post Office Box #61010
Houston, TEXAS 77208

AUG 23 2013
Willie Terion Washington #000856
Polunsky Unit
David J. Braden, Clerk of Court
5872 FM 350 South
Livingston, Texas 77351

August 20, 2013

STATEMENT REQUESTING RECUSAL OF JUDGE DAVID HITTNER AND REMOVAL OF COUNSEL, LOHMAN & DANE

Mr. Willie Terion Washington, deathrow inmate number 000856 comes now before this court to request recusal of Judge Hittner, counsel Lohman & Dane who were appointed by the southern district court (Judge Hittner) & even though defendant does not study law & defendant feels intitled to the full benefit of all claims involved in his case on appeal without compromise on the part of any counsel but it appears that counsel has took the position of forcing defendant to accept the actions or lack of due to defendants stage of appeals (federal jurisdiction) & with this defendant is being denied the right of due process.

Before entering into the 5th. circuit of appeals & standing before, Judge David Hittner & counsel James C. Lohman, I informed them that the trial record had been altered & the evidence switched, namely the bullet evidence because the bullets evidenced on appeal are not the same as those evidenced at trial which were 32 calibur from a Colt firearm. This same song has been sung to all counsel while in state jurisdiction & on into federal. Each run from the issue or act as if they don't hear a word I say or see a word I write. As if I wasn't present at my own trial, cant read or comprehend the matters before me in this case.

Prior to trial during the pretrial discovery hearing held with Asst. D.A. Robert Stabe, trial counsel Reo Harris Jr. & Judge Pat. Lykos, the state stated "we have only one bullet in evidence & it's calibur can't be determined, but if the defense would like to say...". Defense said nothing. On appeal the record now reflects; "there are two bullets in evidence & they are determined to be 38 or 357 calibur. At the start of trial firearms examiner C.E. Anderson said the bullets were 38/357. At trial, Dr. Broch testified that he removed a bullet from my accuser, Yamane Kidane, giving testimony that the bullet traveled 3 places before stopping in the neck. I told counsel that the doctor was lying & showed him from a photo where the bullet went after exiting my accuser. I was removed from the courtroom when my accuser took the stand & the jury removed as well. Counsel later came to me saying that "you were right". Now on appeal the record reflects Dr. Broch saying only "the bullet went in here & stoped in the neck". a chain of custody was ~~performed~~ by the doctor & hospital staff. No Xrays

Performed

exist & none produced when requested while on state habeas. At trial states witness, Mary Drake, testified before the jury that I had drug & money problems & that she found out that I had these problems by way of me **"telling her"**. On appeal a report by HPD's Detective Doug Osterberg, states that he called, Marry Drake, by phone & asked her if she knew of any drug problems I had & she was claimed to say "Yes, I **saw** him use two or three times is how I found out". On appeal, trial counsel Reo Harris, files an affidavit that "I didn't know of any drug use & if I did I wouldn't present it to the jury" but at trial, Reo Harris, myself, second chair counsel, Judge Lykos, the entire jury, the courts clerks, all heard Mary Drake, tell of this drug use & money problems & when this was being said a woman stomped & stood up, & so did 8/10 small kids with her, & walked out of the courtroom. The record now reflects that the jury was removed before the testimony of Drake & that they never heard that testimony at all. Trial counsel seeks to make the report of Doug Osterberg appear withheld material in exchange for the doctors lie about removing a bullet from my accuser. Counsel has great concern for the states witnesses & no counsel to date wants to go near the jury asking/informing of what they heard or saw in regards to Drakes testimony & events resulting. The change of testimony was prompted by a letter in judge Lykos' pocession. The letter trial counsel was not shown & claimed evidence of state. The same letter's Judge Hittner has ruled "defendant knows what the letter says" having no hearing nor one asked for by counsel on that matter either, nor any objection from counsel nor mention by writ or motion by counsel. How does Judge Hittner know that I know what the letter's say ?. How does a 38 qualify as a small calibur bullet ?. Judge Hittner clearly ignores me when I stood before him telling him that no 38 was used & why now in evidence on appeal these bullets appear & not the same bullets as shown at trial. Defendant has reported a crime ^{!!} committed by states attorney & trial judge with the aid of trial counsel & this court, along with appeal counsel from the Texas Defender Service & appeal counsel James C. Lohman, desire to look the other way & collect the checks from federal appeals as if defendant complains of nothing, claim that they are acting in defendants best interest but in truth acting in states best interest & the death penalty, denying defendant due process every step of the way & all the way to the supreme court. It's not hard to believe or expect appointed counsel David Lane to follw the lead of James C. Lohman & defendant has never heard from or seen David Lane since appointed to the case.

I have filed & sent copies to all involved with my case & appeal a complaint outlining all done in my case from arrest to pre-trial to trial & on appeal concerning the record & evidence, altered & switched photo's of crime scene & testimony as here in this document but in greater detail, only to see it pulled by counsel or Asst. Attorney General-Mathew Wymer. Then Texas Defender Service counsel wants to make claim that my accuser was the shooter, contrary to what I've informed them of & attempts to obligate.

Defendant understands that without counsel, without judge he's in a mess. But defendant has no counsel anyway being that his appeal is compromised every step of the way by judge & counsel. I'm not allowed to fight trial counsel for lies told about jury nor trial judge, prosecutor or courts reporter & it must be the fact that my name is on the face of the indictment & nor allowed to fight the charge. Counsel at trial made clear that states witness Dr. Broch was not going to be impeached contradicted by anyone planted bullets or not, false chain of custody or not. No doubt, if I had a fair trial the outcome would have been different, period !.

Randolph Lee Schaffer Jr., who brings the Asst. D.A. Caprise Cosper, to me posing as his paralegal, seeking to have me allow him to remove the affidavit of Reo Harris from the case for the state after receiving \$25,000.00 from me & supporters. Richard Reyna, hired to do some investigations but went only to my mother's home seeking to get letter's I wrote to her & give them over to Judge Lykos, who sent him to my mother's. Judge Lykos is who has the letter's claimed evidence to impeach me please note.

Batson, Brady, Giglio, ineffective assistance of counsel !. Counsel, Lohman, sure wants it to look good in the face of this whole entire fraud & I assume by ignoring my complaints he's willing to tell the courts it's all my imagination & I should raise the Atkins claim also, have the prison system put me on meds because I'm not sane having these courtroom images of counsel & the rest ?. In 2008 when I was before this court in person counsel, after I told my story of the record being altered & who I contacted by copy of my complaint, told the court that "he told me that only constitutional claims can only be raised/presented to the court". So none of what I'm bringing before this court's a violation of my constitutional rights ?. I don't have a right to a true record/appeal ?. Diligent counsel & real evidence not planted or fabricated by state or by aid of counsel in trial or appeal ?. A right to prove or attempt to prove any known lie told by trial counsel or anyone involved with my case & mainly if they claim "what the jury didn't or did hear in trial ?. What trial counsel indulged in with state officials only caused them to be able & do further to the record in other areas behind his back, speeded the case into federal & wouldn't care what he knew then of what they did, because he took part concerning Doctor Broch. "In for a penny, in for a pound". He can't tell on them, they can't tell on him. But I'm telling it & these lawyer's & judges don't want my input. So I don't want theirs. Now everyone wants their good name not spoken ill of after their illdeed's in this matter. My now appeal counsel wishes to aid in that effort by saying & doing nothing but stick to "Batson, Brady, Giglio & IAC" from an altered record. States reason for the switching of photo's, bullet's, altering record was because I accept no mistrial offer by the judge for state to start over again & without Reo Harris as counsel nor the same evidence. Even states investigator is cleaning up his parts in this case concerning his affidavit & I'm

just sitting here watching & getting "Batson" talk from counsel. I can prove the record altered, I can prove that Reo Harris is lying. Now where's counsel ?. I could've proven at trial false evidence & testimony from states witnesses, but counsel changed all of that by aiding the state in covering the matter. Now counsel won't aid me in proving his further lie in this matter & denying me due process. Counsel, Lohman, as well as the past attorney's involved with this case on appeal have taken the position of denying me due process because, most likely, of who's involved. Who can even make the claim that I had a fair trial when the trial judge takes part in a conspiracy to cover up lies of states witnesses with a defendant's own counsel to secure states conviction knowing the testimony false. Counsel had no idea what was to come later after trial/on appeal when those same bullets magically changed into 38's (actual 38's).

Counsel, Lohman, & all the other appeal lawyer's who touched upon this case have done their part in preserving the death penalty. Whenever the states agents demonstrate a lack of integrity state paid & appointed counsel comes to save the day by putting a foot on the neck of the defendant & says "I'm acting in your best interest" all the way to the death-house. Check cashed, end of story. In this case also when paying an attorney for help he's after aiding the state in pulling the affidavit I'm sure was made jointly by trial-counsel & Judge Pat. Lykos & phone monitored material she had from the case during my jail stay.

All counsel, including, James C. Lohman, go soft on state agents involved in my case & the states witnesses knowing that I'm stating a fact & truthfully. What happens to the next case doomed to their deeds ?. "Well, if you don't raise it in state court the matter is closed in federal". Counsel in this case even prevents raising the matter in state court by pulling my written complaint from record. Because I have no money I'm not afforded full representation, I have no rights, not even to fight the accusations made against me in trial or on appeal because trial counsel, even before trial, indicated to Judge Lykos that he felt I was guilty & in the presence of a deputy before that. Counsel Lohman heard what I said before this court in 2008 & he feigned as if he did not understand the violations involved with & in what I had told & said this; "I told him that we could only raise constitutional claims". Then on to appeal from the record. Along with your comment that you knew Judge Roberson who presided over the hearing in 1997 when the facts & conclusions were presented by state prosecutor & you did so with a leering look, Judge Hittner. If this court/Counsel does not wish to give me full & fair due process it's no point going any further. We have no further business.

Respectfully Submitted:

Willie Terion Washington

Date: *August 21, 2013*

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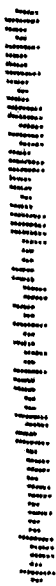
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